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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,279	07/18/2003	Fabian Haischmann	0090096	2408

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EXAMINER	
WITCZAK, CATHERINE	
ART UNIT	PAPER NUMBER
3767	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,279	HAISCHMANN ET AL.	
	Examiner	Art Unit	
	Catherine N. Witczak	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *18* is/are allowed.

6)☒ Claim(s) *1-9 and 11-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

4/8/07

DETAILED ACTION

Withdrawal of Finality

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. This action is non-final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-3, 5-9, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonon (US 6,322,533) as modified by Salerno et al (US 5,336,170)

Claims 1 and 20: Gonon discloses in Figure 1 a rinse pump (2); a pressure sensor on the pressure side of the rinse pump (column 6, lines 43-47); a medical instrument comprising means for establishing fluid communication with the body cavity (column 3, lines 14-15); a suction pump in communication with a first pathway and a second pathway and means for controlling fluid flow along the second pathway (3); and a control unit operative to control fluid flow depending on received pressure changes ("UC" and column 6, lines 43-46).

Claim 2: Gonon discloses in Figure 1 a storage container (2) for supplying fluid to be introduced into the body cavity.

Claim 3: Gonon discloses in Figure 3 a second medical instrument in fluid communication with the rinse pump (3).

Claim 5: Gonon discloses in Figure 3 the second pathway comprising a drainage cannula and draining line.

Claim 6: Gonon discloses in column 8, lines 58-65 the instrument having an on and off operating condition.

Claims 7 and 8: Gonon discloses in column 9, lines 63-67 the volume flow being high when the instrument has an on operating condition and the volume flow being low when the instrument has an off operating condition.

Claim 9: Gonon discloses in column 5, lines 33-41 the drive unit having a motor having a rotating driven shaft and pump unit.

Claim 12: Gonon discloses in Figure 3 the medical instrument being a suction probe.

Claim 13: Gonon discloses in column 5, lines 33-41 the fluid controlling means operable to control flow in one of the modes of proportionally, continuously, or in a multitude on discrete steps.

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Claim 14: Gonon discloses in column 5, lines 46-58 the fluid controlling means comprising a hose clamping device comprising a wall comprising an elastic material, a support surface, and a pressure piece for exerting and decreasing pressure on the elastic portion of the hose wall.

Claim 15: Gonon discloses in column 6, lines 1-4 the pressure piece being substantially linearly drivable.

Claim 16: Gonon discloses in column 5, lines 48-54 an electro motor drive having a spindle gearing connected to the pressure piece.

Claim 21: Gonon discloses in Figure 3 inserting a first, second, and thrd medical instrument into a body cavity, establishing fluid communication between the first medical instrument and a source of rinsing fluid, establishing fluid communication fluid communication along a first pathway between the second medical instrument and a source of negative pressure, establishing fluid communication along a second pathway between the third medical instrument and the source of negative pressure; and discloses in column 6, lines 43-47 sensing a pressure value and controlling fluid flow based on the sensed pressure value.

Claim 22: Gonon discloses in column 6, lines 43-47 a controlling step based upon preset volume flow and desired pressure value.

Claim 23: Gonon et al disclose in column 8, lines 58-65 the second instrument can exist in two operating conditions correlated with a first and second flow.

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Gonon discloses the claimed invention except for the rinse pump comprising an elastic storage container and a controllable pressure cuff. Salerno et al disclose in column 4, lines 25-29 that it is known to use an elastic storage container surrounded by a pressure cuff. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Gonon et al with a pressure cuff as taught by Salerno et al, since such a modification would provide primary control of maximum feed rate.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonon as modified by Salerno et al in further view of Stoller et al (US 2004/0034339).

Gonon discloses the claimed invention except for the medical instrument being selected from a group consisting of an optical system, rinse channel, and rinse cannula. Stoller teaches that it is known to use an instrument consisting of an optical system, rinse channel, and rinse cannula in order to visualize the tissue being irrigated in paragraph 0015. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Gonon with an instrument consisting of an optical system, rinse channel, and rinse cannula as taught by Stoller et al, since such a modification would provide a way to visualize the tissue being irrigated.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonon as modified by Salerno et al in further view of Sanese (US 5,368,569).

Gonon discloses the claimed invention except for the rinse pump comprising a height level variable storage container. Sanese teaches that it is known to use height level variable storage container in order to provide fluid flow in column 1, lines 33-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Gonon with

a height level variable storage container as taught by Sanese, since such a modification would provide fluid flow.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonon as modified by Salerno et al in further view of Romanelli et al (US 4,755,168).

Gonon discloses the claimed invention except for the electro-motor drive comprising a stepping motor. Romanelli teaches that it is known to use a stepping motor in order to control speed and direction by the rate and phase relationships of the signals applied thereto (column 4, lines 63-66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Gonon with a stepping motor as taught by Romanelli et al, since such a modification would provide a stepping motor to control speed and direction by the rate and phase relationships of the signals applied thereto.

Allowable Subject Matter

Claim 18 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER